



General Terms and Conditions for Orders of Production Materials, Spare Parts and Accessories

I.

Governing terms and conditions

The legal relations between the Supplier and BPW Bergische Achsen Kommanditgesellschaft as the Client (hereinafter: BPW) shall be governed exclusively by these Terms and Conditions. Any terms and conditions of the Supplier departing herefrom shall not be deemed incorporated into the parties' contract, either through acceptance of the order or based on any lack of objections in individual cases.

II.

Offers and contract formation

1. The Supplier must submit its offers to BPW free-of-charge, without this entailing any obligation on the part of BPW.
2. Supply contracts (order and acceptance), call-off orders, amendments and addenda of contracts/call-offs must be in writing in order to be valid, and this also applies to any waiver of that very written requirement, which can also be satisfied through remote data transmission. If the Supplier fails to accept the order/contract within 10 days of receipt thereof, which it must confirm in writing to BPW promptly [*unverzüglich*] upon receipt, then BPW shall be entitled to cancel.
3. The formation of the contract shall constitute a procurement obligation for the Supplier with regard to the good/service that is the subject of the contract.
4. Goods and services, which deviate from the order and which the Supplier supplies on its own authority, and additional services not ordered in writing shall not give rise to any (further) claim for payment on the part of the Supplier on any basis (including on the basis of *negotiorum gestio* or unjust enrichment). The rules of applicable law shall apply to any claims for recovery of property [*Herausgabeansprüche*]. The foregoing shall not apply if BPW subsequently acknowledges deviations or additional work.
5. BPW shall be entitled to demand changes to the design and execution of the order/item of delivery to a reasonable extent. The parties shall make appropriate provisions by mutual consent as to the impacts thereof, in particular with regard to additional costs or cost savings as well as delivery dates.

III.

Technical documentation

1. All documents of any kind provided by BPW, such as samples, drawings, blueprints, descriptions, models and the like, shall remain the property of BPW. They may not be used for any other purposes or be disclosed to third parties or reproduced. The Supplier shall return them unbidden to BPW (as well as any copies made therefrom) as soon as they are no longer required to complete the contract.
2. The Supplier shall review the documents that are provided by BPW within the meaning of the foregoing sub-para. 1 and shall do so promptly upon receipt for correctness and completeness, dimension-related accuracy and feasibility. The Supplier must report any defects or missing documents immediately in writing. In the event that Supplier is in breach of this obligation, it may



not subsequently rely on any incorrect or incomplete transmission of information by BPW. The documents provided shall be deemed to have been approved to such extent.

3. The Supplier shall insure all documents and production equipment against damage and loss at no cost to BPW for so long as they remain in the Supplier's possession. Section IX (8) shall apply *mutatis mutandis*.
4. BPW's approval of any drawings, calculations or other technical documentation shall not have the effect of suspending or limiting the Supplier's warranty and guarantee obligations with respect to the goods and services. The foregoing shall also apply, if proposals are submitted by BPW, unless the Parties expressly agree to the contrary in individual cases.
5. Following delivery of the items, the Supplier shall hand over to BPW the requisite number of drawings, calculations and other technical documentation (descriptions etc.) corresponding to the actual execution of the works, in German and standard DIN format. They must be capable of being copied and must be updated whenever subsequent changes are made to the goods or services.
6. The Supplier is obliged to transfer title to these documents to BPW. The title to the intellectual property in them shall remain unaffected hereby, unless specifically agreed otherwise.

IV. Sub-contractors

1. In the event a sub-contractor is engaged, the Supplier undertakes that to impose all obligations on that sub-contractor just as they are imposed on the Supplier under the present contract.
3. Where BPW furnishes assistance in respect of the performance of this contract, it shall do so upon the responsibility, and subject to the liability and the insurance cover of the Supplier. The same applies to any intermediate forwarders.

V. Price, payment and delivery

1. Prices are quoted free factory (construction/assembly site) of BPW, including ancillary costs (packaging, loading and shipping costs etc.), insurance plus statutory VAT (as amended from time to time). The prices are fixed prices and are not subject to any change during the term of performance of the contract.
Unless otherwise agreed, the following terms shall apply to import supplies:
 - "untaxed" for supplies from EU countries,
 - "duty unpaid and untaxed" for supplies from third countries. Customs clearance is performed by BPW at the receiving factory.
2. Payments shall be made within 14 days, applying a 3% discount, or 30 days net, unless otherwise agreed in writing.
 - a) If premature deliveries are formally accepted, the due date for payment shall be governed by the agreed delivery date.
 - b) In cases of defective goods, BPW will be entitled to withhold payment of the proportionate value until proper performance has been rendered.
3. Where partial payments have been agreed, the Supplier must send BPW a written request for payment 14 days before every agreed payment date. Payments shall not fall due before such time.



4. Invoices must be submitted in duplicate. Before invoices fall due, they must meet the following requirements: They must comport with the requirements of applicable law, and in particular they must separately show the remuneration (net invoice amount) and the amount of tax charged on such remuneration, and they must also contain vendor numbers, invoice numbers, numbers and data or the purchase order, the purchase agreement and/or the call-off order, additional data from BPW (account references), unloading point, numbers and data from the delivery notes and the quantity of services and goods invoiced. Invoices must always reference only a single delivery note.
5. In any case, the delivery notes or shipping notices must contain the supplier number, purchase order number and article number in addition to the standard quantity and weight information.

VI. Deadlines and breaches of duty

1. The agreed dates and deadlines are binding. BPW's continued interest in the performance of the contract as a whole is premised on timeliness of the Supplier's performance. The foregoing shall also apply in the event that the Supplier has already provided goods in part. The receipt of the goods at the BPW factory to be supplied shall be determinative of the Supplier's compliance with delivery dates.
2. If the Supplier fails to meet the agreed deadlines, then it shall pay in the case of the performance delay [*Verzug*] a contractual penalty [*Vertragsstrafe*] of 0.25% of the net order amount – and for partial deliveries/partial call-offs, 0.25% of the net order amount attributable to the respective partial performance owed – for each working day of the delay; in total, the contractual penalty may not exceed 5% of the net order amount – and for partial deliveries/partial call-offs, 0.5% of the net order amount attributable to the respective partial performance owed. The Supplier shall promptly refund the amount thereof to BPW, if there are no more outstanding payments from which BPW can immediately deduct it.

BPW expressly reserves the right to assert further claims, crediting penalties triggered as offsets against the minimum amount of its damages.

3. The Supplier shall be liable to BPW for all direct and indirect losses caused by its default. Acceptance of late delivery of goods or services shall not constitute any waiver of BPW's claims for damages.

VII. Notification of defects

BPW must notify the Supplier of any defects within 2 weeks. In the case of obvious defects, this period shall begin to run at the time of handover; in the case of latent defects, this period shall begin to run upon their discovery in the ordinary course of business. To this end, the Supplier agrees to waive the delayed defect notification defence within the meaning of sec. 377 of the German Commercial Code.

VIII. Duty of documentation and liability for defects/guarantee

1. The Supplier hereby warrants that all of the goods and services provided shall comply with the most recent state-of-the-art, the relevant provisions of applicable law and the regulations and guidelines of authorities, professional associations and trade associations and with the agreed technical data (as set forth, e.g., in quality agreements). For the product/process release, reference



is made to the valid description (as updated from time to time) found at www.bpw.de/ Supply Chain Management/ Product/Process release.

Irrespective thereof, the Supplier must constantly inspect the quality of the items of delivery and must document the inspection findings in writing. The parties shall mutually notify one another about the possibilities for any quality improvement. The inspection documentation must be retained for 10 years and presented to BPW upon request.

2. For the components and parts that are specially identified in the technical documents (e.g., through "D") or through a separate agreement, the Supplier must in special logs or records also document matters as to when, in what manner and by whom the items of delivery were inspected with regard to the features required to be documented and which results were yielded by the requested quality inspection. The inspection documents must be retained for 10 years and must be presented to BPW upon request. In this context, reference is made to the German automotive industry paper on assuring the quality of the delivered products, "VDA-Schrift Band 2 volume 2" (assuring the quality of the delivered goods / supplier selection / quality agreement / production process and product release / quality achievement in the series, summary description), the content of which is hereby made a part of, and referenced into, this contract. The aforementioned VDA-Schrift is available for inspection at any time during ordinary business hours in the BPW purchasing office, and a copy of that paper will be provided free of charge and at any time to the Supplier upon request.
3. If government agencies that are responsible for regulating motor vehicle safety (or similar such matters) demand to inspect the production process and the inspection documents in order to check certain requirements, then the Supplier agrees at the request of BPW to grant the government agencies in its plant the same rights and any reasonable support to that end.
4. The prescription of claims for defects and recourse claims shall be governed by the provisions of applicable law (statutes of limitation).
5. BPW's continued interest in the performance of the contract as a whole is premised on timeliness of the Supplier's subsequent performance remedy (*Nacherfüllung*) owed by the Supplier. The foregoing shall also apply in the event that the Supplier has already provided goods and services in part.
6. Where BPW demands remediation of the defect and the Supplier fails to comply with such demand prior to the reasonable deadline set by BPW, BPW may take such measures itself as are necessary or have them taken by qualified third parties at the Supplier's expense and risk, without prejudice to the Supplier's continuing warranty/guarantee obligation(s).

In urgent cases (e.g., risk to operational safety, risk of BPW's own default as an obligor *vis-à-vis* other contracting parties, etc.), BPW may, after the expiration of a reasonable grace period which must be afforded to the Supplier for a subsequent performance remedy, immediately remediate the defect itself or have such remediation performed by qualified third parties and claim reimbursement of the necessary expenses from the Supplier. The same shall apply where a risk of high losses is present. BPW's further claims as well as the Supplier's existing warranty/guarantee obligations shall remain unaffected by the foregoing.

7. The fully completed and updated safety data sheet pursuant to the REACH Regulation (EC) no. 1907/2006 (including the Supplemental Reg (EU) 2018/588 that was also enacted) must be delivered to BPW no later than the agreed delivery date. If the materials used by the Supplier contain substances or preparations that are listed in the Ordinance on Hazardous Materials in effect from time to time and/or in the appendices thereto, then the Supplier must label the materials accordingly.



8. BPW may also assert warranty claims following expiry of the prescription period(s) if BPW has notified the Supplier in writing of the relevant defects prior to expiry of the limitations period. Where claims within the meaning of the 1st sentence hereof are asserted, they shall become time-barred within 18 months of the Supplier's receipt of the written demand, but not before expiry of the agreed prescription period(s).
9. If a defect is attributable to the description of goods and services, to BPW's instructions or to substances supplied by or prescribed by BPW or preliminary goods and services provided by another company, then the Supplier shall be released from its warranty obligations for defects only on the condition that it has informed BPW in writing prior to its provision of the goods/services regarding any cognisable objections to the description of goods and services, to the instructions given by BPW or the preliminary goods and services provided by other companies and has afforded BPW the opportunity to remediate the defect.
10. To this end, the Supplier agrees to comply with the valid and applicable environmental protection provisions in the procurement, production and/or disposal of materials, consumables and/or supplies, finished and unfinished parts.

IX. Liability

1. Without prejudice to any other provisions contained in these General Terms and Conditions and in the contract documents, the Supplier shall be liable for all personal injury, damage to property and financial losses culpably caused by it, its employees and/or its vicarious agents. The same shall also apply in the event of a breach of the duty of confidentiality pursuant to sec. XII.
2. If BPW furnishes support by providing manpower and equipment, then BPW shall not be deemed to assume any liability therefor provided that the Supplier has the right to issue instructions. BPW shall only be liable for having carefully selected workers and equipment.
3. If claims are asserted against BPW on the basis of strict liability to third parties under a legal provision which is not capable of derogation in advance, then the Supplier shall be liable to BPW to the same extent that it would be directly liable itself. The principles of sec. 254 BGB shall apply *mutatis mutandis* to claims for damages between BPW and the Supplier.
4. The Supplier's duty to pay damages shall also extend to measures taken by BPW to avert and avoid losses (e.g., recall campaigns).
5. BPW shall inform and consult the Supplier promptly and comprehensively where there is an issue of the Supplier's liability. BPW shall afford the Supplier the opportunity to investigate any case of damage. The parties shall coordinate with one another regarding what measures are to be taken in this regard, in particular with respect to settlement negotiations.
6. The Supplier shall take out its insurance policies such that the interests of BPW and any relevant third parties are safeguarded in the event of loss.
 - a) The Supplier shall furnish evidence of a policy of business and product liability insurance containing at least the following coverage for the Supplier, its managing directors and employees:

EUR 5 million flat charge
 - b) The Supplier is also obligated to furnish evidence of environmental liability insurance including cover for recourse claims, with a minimum coverage of EUR 2 million.



- c) In addition, the Supplier is obligated to furnish evidence of recall expense insurance [*Rückrufkostenversicherung*] that includes the following minimum coverage:

EUR 5 million flat charge

- d) The items a + c must have a world-wide scope of application.

The insurance policies must cover the entire term of supply, including the period of liability for defects/warranty.

7. No later than at the time of concluding the contract, the Supplier will let BPW know which additional insurances should be taken out in view of the special features of the specific contract.
8. In the event that BPW suffers losses that are covered by one of the foregoing insurance policies, the Supplier hereby assigns its claims against the insurance in question to BPW. BPW hereby accepts the assignment and shall endeavour to obtain the consent of the insurance company in question. The same shall apply if any third party suffers losses that BPW is obliged to pay. Any claims BPW may have against the Supplier shall be reduced accordingly. The Supplier is revocably authorised to assert claims against the insurance companies in its own name but for BPW's account. The Supplier undertakes that it shall provide BPW with a copy of all of the policies. If the Supplier fails to comply with its obligations in this regard, BPW shall be entitled to take out the relevant insurance policies in the name of and at the expense of the Supplier and/or to pay the premiums due and offset the costs incurred against the Supplier's claims.
10. BPW shall maintain business liability insurance in place with the minimum sums assured as specified in sub-para. 6. BPW shall be liable for property damage and financial loss only to the extent of such business liability insurance. BPW shall be liable for personal injury suffered by the Supplier's personnel within the limits of statutory regulations. BPW may demand that the Supplier indemnify BPW against such claims, to the extent they exceed the amounts covered by BPW's business liability insurance.

X. Software

To the extent that the Supplier's scope of goods and services include software, the Supplier grants BPW the sole and exclusive right to use such software, including the documentation thereto.

XI. Passage of risk

The risk of material damage and counter-performance [*Gegenleistungsgefahr*] shall pass to BPW when the drop-off delivery is made to the BPW factory to be supplied.

XII. Confidentiality

1. The Supplier may use for provision of goods and services to third parties or make accessible to third parties any descriptions, models, matrices, templates, samples, drawings, tools and other documents of any kind or means of production, including confidential information provided by BPW to the Supplier, but only with the prior written consent of BPW. Similarly, the Supplier must not supply any material produced according to templates, technical regulations, specifications etc. developed by BPW to third parties without BPW's prior written



consent. The Supplier undertakes to keep all commercial and technical details relating to the order confidential and not to disclose them to third parties.

2. Furthermore, the Supplier undertakes that it shall impose these obligations, which it has assumed, on all persons and companies involved in the performance of the contract, in the same manner as imposed on itself.
3. The parties may advertise their business relationship only with prior written consent of the other party.
4. The Supplier shall pay BPW a contractual penalty of € 50,000.00 ("fifty thousand euro") for each breach of the data protection rules or security/confidentiality agreements for which the supplier is responsible or shall pay € 5,000.00 ("five thousand euro") in the event of a breach of sub-para. 3 hereof. The parties reserve the right to assert further claims beyond this, taking into account the penalty triggered as the minimum amount of losses.

XIII.

Intellectual property rights

1. Where it has acted culpably, the Supplier shall be responsible for ensuring that its components/product is free of third-party intellectual property rights and that no other rights exist which would exclude contractual use, either in whole or in part.
2. In the event that the Supplier is liable under sub-para. 1 hereof, the Supplier shall assume sole and unlimited liability towards any parties asserting an infringement of intellectual property rights or other rights to the goods/services and undertakes that it shall indemnify and hold BPW and its customers harmless against any claims asserted by the IP or copyright holders concerned.
3. In an effort to facilitate a party joinder to a legal action [*Nebenintervention*], each party shall be obligated to inform the other party promptly in writing if a claim of an infringement of intellectual property rights is asserted against it.
4. The Supplier shall notify BPW of the use of published or unpublished intellectual property rights or applications for intellectual property rights in the components/deliverables of its own or which have been assumed under licence.
5. If the contractual use of the goods/services is impaired by intellectual property rights of third parties, then the Supplier, in the event that it is liable under sub-para. 1 hereof, shall have the right, to the extent it is reasonable to BPW, to either modify the contract products or services such that they fall outside the scope of the intellectual property, but nevertheless comply with the parties' contract agreements, or to procure authority to use the intellectual property in accordance with the contract without restriction and without entailing additional cost to BPW.
If the Supplier fails to eliminate the impairment of the right of use within the meaning set out above, then BPW shall be entitled to resile from the contract in whole or in part, to demand an abatement of the compensation (including retroactively), up to the total amount of remuneration, or to demand compensation in damages instead of whole or part performance.
6. The warranty period for the Supplier's liability for intellectual property rights shall be 36 months from the date of drop-off delivery.



XIV.

Unforeseeable events, insolvency

1. *Force majeure* events, labour disputes (strikes and lock-outs) civil unrest, official measures (plant or factory shutdowns, operating restrictions, withdrawal or restriction of operating permits etc.), natural disasters and other unforeseeable, unavoidable and serious events shall release BPW from its obligation to formally accept the goods and services for the duration of the disruption and to the extent thereof. The parties shall have no claims for compensation or damages under the heading of delayed completion for the duration of such disturbances.

The parties are obliged to provide the necessary information promptly, within the scope of what is reasonable, and to adapt their obligations, so far as possible, to the changed circumstances in good faith.

2. If the Supplier's financial circumstances deteriorate significantly after the contract has been awarded, and in particular if a petition is filed for the commencement of insolvency proceedings against the assets of the Supplier, or if the legal form of the Supplier's company changes, then BPW shall be entitled, for a period of 1 month, to resile from the contract. This period shall begin to run as soon as BPW becomes aware of one of the aforementioned circumstances.

XV.

Provision of material by BPW

1. Materials supplied by BPW shall remain the property of BPW and, for as long as such material is in the possession of the Supplier, the Supplier must insure it against damage and loss, at no cost to BPW. Sec. IX. (9) shall apply *mutatis mutandis*. BPW's packaging material must be returned to it freight pre-paid in perfect condition, unless used for return delivery.
2. The Supplier shall inspect any material provided by BPW for defects promptly upon receipt, to the extent this is feasible in the ordinary course of business. Any defects or missing documents must be reported within 2 weeks' time. In the event of obvious defects, this period shall begin at the time of handover, and in the case of latent defects, the period shall begin to run upon their discovery in the ordinary course of business. Where defects are found, the defective material may not be used within the meaning of sub-para. 3 below. If the Supplier fails to notify BPW in due time and nevertheless uses the material within the meaning of sub-para. 3, then it shall be liable for any resulting damage. In all further and other respects, the rules allocating the burden of proof under sec. 377 HGB shall apply.
3. If a new chattel within the meaning of sec. 950 (1) BGB is produced as a result of processing or transformation of one or more substances, then BPW shall be deemed the manufacturer, where BPW provided one of the processed or transformed substances. If chattels within the meaning of sec. 947 BGB are combined with one another or comingled or blended with one another within the meaning of sec. 948, and if an item should be regarded as the principal item within the meaning of sec. 947 (2) BGB, then the Supplier shall hereby convey its co-ownership share (resulting from the ratio of value of the item(s) provided by BPW at the time of the combination of the items) to BPW (to the extent that the principal item is not already the item provided by BPW) in accordance with secs. 929 (1), 930 BGB and grants indirect possession to BPW in this regard under sec. 868 BGB.



XVI. Compliance

1. The Supplier warrants that it shall comply with the applicable laws governing the general minimum wage and that it shall impose the same obligations on sub-Suppliers engaged by it. The Supplier shall furnish proof thereof to BPW upon request. In the event of any violation for which the Supplier is responsible, it shall indemnify and hold BPW harmless against any claims by third parties and shall have a duty to reimburse BPW for any fines imposed on BPW in connection therewith.
2. The Supplier shall comply with the applicable laws on dealings with employees, occupational safety and environmental protection and shall take affirmative efforts to reduce adverse effects on people and the environment with regard to its activities. To this end, the Supplier shall set up a management system under ISO 14001, to the extent possible. The Supplier hereby warrants that it will comply with the principles of the UN Global Compact Initiative, which primarily concerns the abolition of forced and child labour, the protection of international human rights, the elimination of discrimination in employment and responsibility for the environment (unglobalcompact.org).
3. In the event of any breach of the foregoing obligations for which the Supplier is responsible, the Supplier shall, following a warning, inform BPW within a reasonable time of what measures it has taken to prevent future breaches. If it fails to comply with this obligation or does not implement these measures within a (further) reasonable time, then BPW shall be entitled to resile from the contract or terminate the contract with immediate effect.
4. In the event of serious violations of law for which the Supplier is responsible, BPW shall be entitled to resile from the contract immediately or terminate the contract without notice.

XVII. General provisions

1. The present contract contains all relevant agreements between the parties. The parties have made no ancillary agreements.
2. If any term or provision of this contract is or becomes void, either in whole or in part, due to a violation of statutory rules or for any reason gives rise to doubts of a legal or factual nature, then such circumstances shall not render the entire contract void. Instead, the invalid term shall be interpreted as having been intended in a fashion and should be amended accordingly or recast in a way as most closely reflects the intentions of the parties, as those intentions flow from this contract as a whole, in a manner which is legally permissible.

If the invalidity of a term is based on a specific measure of performance or time (deadlines or dates), then it shall be replaced by such legally permissible measure as comes the closest to that term.

Either party may at any time require the other party to cooperate in agreeing a substitute term of this kind. The same shall apply if a contractual gap requiring supplementation becomes apparent during performance of this contract.

In all further and other respects, the provisions of applicable law shall apply.

3. The place of performance for the goods/services shall be the agreed destination at the BPW factory to be supplied, and in all other cases Wiehl. The place of performance for payments is Wiehl.
4. The parties' relations shall be governed exclusively by German law. The parties exclude any applicability of the United Nations Convention on Contracts for the International Sale of Goods. Sole jurisdiction and venue shall lie with the competent courts of Cologne.



5. Any assignment of the Supplier's claims for receivables under this contract shall require BPW's consent.
6. In the spirit the Data Protection Act, it is noted that BPW stores data pertaining to the Supplier and uses it in connection with the parties' collaboration.